

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DANNY ALBERT NICHOLS JR.,  
a.k.a. Big D, a.k.a. Big Country,

Plaintiff,

Case No. 1:23-cv-10694

v.

Honorable Thomas L. Ludington  
United States District Judge

N.P. KAURE, DR. VINDHYA JAYAWARDENA,  
and JODIE DEANGELO, warden,

Defendants.

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**OPINION AND ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT AND  
MOTION FOR APPOINTED COUNSEL**

An inmate somehow got a piece of tissue stuck in his ear and then sued the prison nurse who flushed it out, as well as her supervising doctor and the warden of the facility. His complaint was dismissed as frivolous. Now, the inmate seeks relief from the judgment and court-appointed counsel, or \$3.5 million to settle the case.

**I.**

Plaintiff Danny Albert Nichols brought this civil-rights case *pro se* under 42 U.S.C. § 1983. Incarcerated at Woodland Center Correctional Facility, he sued a nurse practitioner, a doctor, and the warden because his eardrum was punctured while a piece of tissue was being flushed from his ear canal. The case was summarily dismissed under 42 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim. *Nichols v. Kaure*, No. 1:23-CV-10694, 2023 WL 2746789 (E.D. Mich. Mar. 31, 2023). Then Plaintiff filed a motion for relief from judgment, ECF No. 8, a motion for appointed counsel, ECF No. 9, and a letter offering to “settle out for . . . \$3.5 mill total,” ECF No. 10.

On April 24, 2023, Plaintiff filed a notice of appeal, ECF No. 11, which may not proceed until the resolution of his motion for relief from judgment, *see* FED. R. APP. P. 4(a)(4)(A)(vi).

## II.

As a threshold matter, Plaintiff's motion will be denied for lack of analysis. He has not cited Rule 60(b), identified which arguments seek relief under it, or explained why it warrants the relief he seeks. *See* ECF No. 8; *Lewis v. Sole L., PLLC*, No. 1:21-CV-12846, 2023 WL 372641, at \*3 (E.D. Mich. Jan. 24, 2023). Therefore, Plaintiff's motion for relief from judgment will be denied. *E.g.*, *Sorezo v. Buckingham Palace*, No. 1:22-CV-12540, 2023 WL 1816084, at \*2 (E.D. Mich. Feb. 8, 2023) (citing *Magna Elecs., Inc. v. TRW Auto. Holdings Corp.*, No. 1:12-CV-654, 2016 WL 4239184, at \*7 (W.D. Mich. Jan. 6, 2016)).

His motion will also be denied for lack of merit. He merely mentions that he is mentally ill and did not have an attorney, which both fit like square pegs into the round hole of “exceptional or extraordinary circumstances.” *Ford Motor Co. v. Mustangs Unlimited, Inc.*, 487 F.3d 465, 468 (6th Cir. 2007) (collecting cases) (citing FED. R. CIV. P. 60(b)(6)). Because he has not corroborated his alleged mental illness or identified its specific nature, it does not warrant relief. *Cf.* Matthew N. Preston II, *The Tweet Test: Attributing Presidential Intent to Agency Action*, 10 BELMONT L. REV. 1, 33 (2022) (“Courts should not consider uncorroborated statements in [constitutional] challenges.”). For the same reasons, his lack of an attorney while filing his complaint does not warrant relief—especially because the underlying circumstances are bizarrely simple and his complaint was well written and cogently reasoned. Even so, neither an alleged mental illness nor a lack of counsel would explain how or why Defendants were at least reckless in flushing a piece of tissue from Plaintiff's ear. For failing to demonstrate an error in the dismissal of his complaint or that he is otherwise entitled to relief under Rule 60(b), his motion for relief will be denied.

And his request for court-appointed counsel will be denied as moot because there are no other pending motions in this case.

**C.**

Lastly, Plaintiff may not appeal *in forma pauperis*, because an appeal from this Order would be frivolous and not taken in good faith. *See* 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a).

**III.**

Accordingly, it is **ORDERED** that that Plaintiff's Motion for Relief from Judgment, ECF No. 8, is **DENIED**.

Further, it is **ORDERED** that Plaintiff's Motion for Counsel, ECF No. 9, is **DENIED AS MOOT**.

Further, it is **ORDERED** that Plaintiff is **DENIED** leave to appeal *in forma pauperis*.

Further, it is **ORDERED** that the Clerk of the Court is **DIRECTED** to send this Order to the Sixth Circuit Court of Appeals re: *Nichols v. Kaure*, No. 23-1387 (6th Cir. filed Apr. 28, 2023).

**This is a final order.**

Dated: May 2, 2023

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge